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July 13, 2015

Hon. Andrew J. Peck
United States Magistrate Judge,
Southern District of New York
Daniel Patrick Moynihan Courthouse
500 Pearl Street, Courtroom 20D
New York, New York 10007

Re: Rio Tinto v. Vale et al, Civil Action No. 14-cv-3042 (RMB) (AJP) (S.D.N.Y.)

Dear Judge Peck:

We write regarding Vale's refusal to produce the Nardello Report. At the last conference, the Court stated it was "inclined to order [the Nardello Report] produced" and encouraged Vale "over the next two weeks . . . to reconsider [its] position," not least because of Vale's prior indication "that once the motion to dismiss were denied it would be inclined to . . . produce" the Nardello Report in any event. June 22, 2015 Hr'g Tr. 3:9–22. Despite this Court's request that Vale reconsider its position, Vale seems as though it will not budge absent a written opinion from Your Honor. Indeed, Vale has failed to respond to an inquiry from Rio Tinto, sent on July 8, asking whether it has reconsidered its position.

Moreover, Vale's ongoing refusal to turn over the Nardello Report (first requested more than a year ago) continues to interfere with critically important third-party discovery that has been served, for example, on Nardello & Company and remains outstanding. Nardello & Company refuses to respond to Rio Tinto's discovery requests until Vale either voluntarily produces the Nardello Report or is compelled to do so. Rio Tinto also fully anticipates that the contents of the Nardello Report and underlying materials will shed light on additional critical facts and sources that will likely lead to additional discovery requests, including potential Hague Convention requests. Vale's ongoing and unreasonable refusal to produce the Nardello Report continues to severely prejudice Rio Tinto's ability to pursue relevant discovery.

Rio Tinto thus requests an order compelling Vale to produce the Nardello Report.

Respectfully submitted,

/s/ Michael J. Lyle
Michael J. Lyle

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